

REGULAR CITY COUNCIL MEETING  
APRIL 22, 1996

037

PRESENT

Don Dafoe	Mayor
Gayle Bunker	Council Member
Robert Droubay	Council Member
Dale Roper	Council Member
Glen Swalberg	Council Member

ABSENT

Robert Dekker	Council Member
Dorothy Jeffery	City Recorder

OTHERS PRESENT

Richard Waddingham	City Attorney
Neil Forster	Public Works Director
Alan Riding	Asst. Public Works Director
Judy Baker	City Treasurer
Darin Phelps	Chronicle/Progress
Gregory Schafer	City Employee
Ruth Hansen	City Resident
Andy Thompson	City Resident
Scout	

Mayor Dafoe called the meeting to order at 7:05 p.m. Judy Baker, City Treasurer, acted as secretary. Mayor Dafoe stated that notice of the meeting time, place and agenda was posted at the principal office of the governing body located at 76 North 200 West and was provided to the Millard County Chronicle/Progress, the local radio stations, and to each member of the City Council by personal delivery two days prior to the meeting.

Council Member Gayle Bunker offered an invocation, after which Mayor Dafoe led the Council in the Pledge of Allegiance.

MINUTES

The proposed minutes of a Special City Council Meeting, held March 25, 1996, were presented for consideration and approval. The Council reviewed the minutes briefly, after which Council Member Glen Swalberg MOVED that the minutes be approved as presented. The motion was SECONDED by Council Member Gayle Bunker. Mayor Dafoe asked if there were any comments or questions regarding the motion. There being none, he called for a vote. The motion passed unanimously.

The proposed minutes of a Regular City Council Meeting held April 8, 1996, were presented for consideration and approval. The Council reviewed the minutes briefly, after which Council Member Glen Swalberg MOVED that the minutes be approved as corrected. The motion was SECONDED by Council Member Dale Roper. Mayor Dafoe

asked if there were any comments or questions regarding the motion. There being none, he called for a vote. The motion passed unanimously.

#### ACCOUNTS PAYABLE

The Council reviewed the accounts payable, a list of which had been given to them two days prior to the meeting. Following a brief discussion of the accounts payable, Council Member Gayle Bunker MOVED that the accounts payable be approved for payment as listed in the amount of \$39,470.43. The motion was SECONDED by Council Member Glen Swalberg. Mayor Dafoe asked if there were any comments or questions regarding the motion. There being none, he called for a vote. The motion passed unanimously.

#### UNFINISHED BUSINESS

#### NEW BUSINESS

#### MAYOR DON DAFOE: IRRIGATION WATER RATES FOR THE 1996 IRRIGATION SEASON

Mayor Dafoe asked Neil Forster, Delta City Public Works Director, for information on the 1995 water rates. He stated the rates were \$30 ditch tax and \$30/acre foot water. This amount covered expenses last year and should be sufficient for this year. April 29, 1996 is scheduled as the first water day this year. Jack Thomas will take care of the irrigation water again this year.

Council Member Gayle Bunker MOVED to establish irrigation water rates of \$30/acre foot water rental and \$30 ditch tax. The motion was SECONDED by Council Member Dale Roper. Mayor Dafoe asked if there were any comments or questions regarding the motion. There being none, he called for a vote. The motion passed unanimously.

#### ATTORNEY RICHARD WADDINGHAM: RESOLUTION NO. 96-241

Attorney Waddingham presented a proposed resolution entitled:

#### RESOLUTION NO. 96-241

#### A RESOLUTION ACCEPTING A PETITION FOR ANNEXATION (NORTH DELTA) FOR THE PURPOSE OF PREPARING A POLICY DECLARATION RELATIVE TO THE PROPOSED ANNEXATION TO THE CITY OF DELTA, UTAH, AND REPEALING RESOLUTION NO. 96-240

Attorney Richard Waddingham stated that on March 25, 1996, Delta City adopted a resolution to accept a petition from certain

property owners for the North Delta Annexation proposal. Since that time, the plat has been amended to remove a parcel of property from the proposed annexation territory. A new plat was prepared by a surveyor and filed with the Delta City Recorder. In checking for accuracy, Attorney Waddingham stated that the current resolution needs to be repealed. It appears that the petition for annexation did not contain a "majority" of the property owners for the area proposed for annexation.

Attorney Waddingham referred to the recitals of a proposed new Resolution to repeal and replace Resolution No. 96-240. The plat and property description previously filed with the Delta City Records Office has been revised to withdraw that portion of property previously subject to the proposed annexation owned by Kirt Overson and to reflect the appropriate boundaries of the proposed annexation. Mayor Dafoe noted that the property is owned by Peggy Overson, not by Kirt Overson. Attorney Waddingham instructed that Kirt Overson's name be removed and Peggy Overson's name be inserted by interlineation name. The mayor initialed the change. Attorney Waddingham indicated that up to this point, it appears that all statutory requirements for the proposed annexation have been met. Also, there must be compliance with the Delta City Master Annexation Policy. According to the Delta City Master Annexation Policy, after the plat and petition are filed with the City, the City Council may accept the petition by adopting a resolution directing the preparation of an amendment to the Master Policy Declaration for the proposed annexation. Thereafter, a Policy Declaration Statement, Impact Evaluation Statement, proposed ordinance, and legal opinion are prepared for the Planning Commission's review.

The proposed Policy Declaration Statement has been prepared. However, before any documents are submitted to the Planning Commission, Delta City must either repeal or amend Resolution 96-240 to clear up any existing defects or deficiencies. Accordingly, Attorney Waddingham said it would be appropriate to either amend the previous resolution or repeal it and adopt a new resolution showing that a new plat has been prepared outlining the appropriate boundaries of the proposed annexation territory and showing compliance with the requirements of Delta City municipal policy and state law.

Following discussion, Council Member Dale Roper MOVED to adopt Resolution No. 96-241 as presented. The motion was SECONDED by Council Member Glen Swalberg. Mayor Dafoe asked if there were any comments or questions regarding the motion. There being none, he called for a roll call vote. The voting was as follows:

Council Member Glen Swalberg	Yes
Council Member Robert Droubay	Yes
Council Member Gayle Bunker	Abstain
Council Member Dale Roper	Yes

Mayor Dafoe then signed the resolution. Mayor Dafoe's signature will be attested to by Dorothy Jeffery, City Recorder.

MAYOR DON DAFOE: ANNEXATION POLICY DECLARATION STATEMENT

This item is for discussion only. The Annexation Policy Declaration Statement, which is proposed as an amendment to the Delta City Master Annexation Policy Declaration, will be submitted to the Planning Commission for their review. The Policy Declaration Statement was prepared under the direction of Mayor Dafoe, with input from Attorney Waddingham, Public Works Director Neil Forster and other Council members. The Statement incorporates the petition for annexation and the plat outlining the proposed boundaries. The Statement describes in detail the purposes for the annexation and the policies and criteria that Delta City may utilize in furtherance of the proposed annexation.

Following discussion, Mayor Dafoe recommended that the Annexation Policy Declaration Statement be submitted to the Planning Commission for their review. If and when the Planning Commission makes their recommendations to the City Council, a date and time for public hearing can be set.

Mayor Dafoe stated that the Community Impact Evaluation Statement, prepared by Mayor Dafoe and Attorney Waddingham, will also be submitted to the Planning & Zoning Commission for their review. Attorney Waddingham stated that, in his opinion, the Master Annexation Policy Declaration needs to be amended, primarily because it requires that duplicative documents be prepared above and beyond requirements of State law. For example, the Community Impact Evaluation Statement sets forth the same criteria contained in State law for the Policy Declaration Statement. Attorney Waddingham recommends that we amend the Master Annexation Policy in the near future.

MAYOR DON DAFOE: RESOLUTION ON CURB AND GUTTER PARTICIPATION BY DELTA CITY

RESOLUTION NO. 96-

A RESOLUTION OF THE CITY OF DELTA, UTAH TO PARTICIPATE WITH DELTA CITY PROPERTY OWNERS BY PROVIDING ONE-HALF OF SITE PREPARATION COSTS AND ONE-HALF OF CONCRETE REPLACEMENT COST FOR SIDEWALK CONSTRUCTION

Attorney Waddingham explained that this resolution was based on the City Council's desire to cooperate with property owners engaged in constructing new sidewalk on their premises. Delta City desired to participate in those projects by providing one-half of the site preparation costs and one-half of the concrete replacement costs for new sidewalks, provided that there were funds made available to Delta City from revenue sharing with Millard County.

Council Members requested that these projects be pre-approved by

the City Council. In addition, they would like to include curb and gutter replacement and continue to participate after Millard County terminates such revenue sharing. There was discussion regarding what projects would be covered by this resolution, how it should be implemented, and what liability the City could incur.

Following discussion, Council Member Glen Swalberg MOVED to table discussion of this item until further clarification has been made. The motion was SECONDED by Council Member Robert Droubay. Mayor Dafoe asked if there were any comments or questions regarding the motion. There being none, he called for a vote. The motion passed unanimously.

#### OTHER BUSINESS

Council Member Gayle Bunker stated that he had talked with Gary Losee, who has property west of Delta, Utah. He is desirous of being annexed and he thought that some of the other people owning property West of Delta might also be interested. He thought Rayola Tolley, who has purchased the Cave property, may also be interested. However, Council Member Bunker had not contacted her. Mayor Dafoe stated that Shirley Schena was going to contact Quality Oil, who owns the property west of her. However, he has not talked with Mrs. Schena since that time.

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Mayor Dafoe stated that he had talked with Kevin Bogue, who would like the City's participation on a water way in front of his business, Delta Sports Center. The street asphalt and the asphalt in the parking area of Delta Sports Center is coming apart. There is approximately 220 feet. He obtained an estimate from Dude and Jerry Bennett of about \$8/foot for a four foot wide water way. The City's share would be approximately \$800, the balance would be paid by Delta Sports Center. There is currently an asphalt water way which is deteriorating. No action was taken.

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Council Member Glen Swalberg has discussed the diatomaceous earth plant with both Mayor Dafoe and Millard County officials. In his opinion, the City has an obligation to check the health hazard possibilities of this plant. It is not on city property, but it is close. He has done some checking on his own and has been informed that it does create a tremendous amount of hanging dust and at least one geologist is quite certain that it does contain elements which cause respiratory and lung problems if breathed in sufficient amounts. They are proposing a 30,000 square foot warehouse for the raw material and a 30,000 square foot warehouse for the finished product. Council Member Swalberg would like to have the City request the State Health Dept. to get some data for the City Council's information. Mayor Dafoe reported that the material will be mined and crushed in Oregon, the powder will be loaded in sealed

railroad cars, then the material will be off-loaded into a building, where it will be shipped as a back-haul for coal trucks. The material would be hauled from Delta to Aurora and Redmond where it would be crushed and reduced into powder form, combined with an insecticide and placed in sealed plastic bags to be hauled back to Delta and stored in the warehouse. It would then be shipped for agricultural use to California, Arizona and Texas. The Council Members agreed that we should investigate prior to giving full endorsement to the project.

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Council Member Glen Swalberg passed out copies of the beautification ordinances which the City will be working with and attempting to enforce in relation to the city clean up efforts. Council Member Swalberg requested that a three (3) person committee be appointed to act as an inspection committee rather than one person as set forth in Section 10-351-B of the Revised Ordinances of Delta City, entitled "Inspector Duties". This committee would be assigned to go around town and report the most severe problems. Attorney Waddingham suggested that the three person committee serve as an advisory board to report to one person designated as the Inspector, who would be responsible to make certain that all the steps are followed as required by the ordinance. Council Members will give the idea some thought and discuss the matter further at a later date.

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Mayor Dafoe reported that there were thirty-two (32) applicants for the position vacated by Virginia Taylor. Job Service type tested the applicants and reduced the number to approximately sixteen (16). Dorothy Jeffery and Mayor Dafoe will try to conduct interviews on Thursday, April 25th. It will be a full time position and will probably include training to be a back up for Rita Byrd.

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Attorney Waddingham reported that he researched the issue of adopting a resolution or ordinance for annexation by 2/3 vote and found there is no Utah case law. He then contacted some attorneys in the Salt Lake area who have had experience in annexation matters to ask their opinion. He found that there were differing opinions as to whether a 2/3 vote of a quorum present is sufficient or whether 2/3 vote of the full council is required.

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Council Member Robert Droubay gave each Council Member a copy of a proposed letter to be sent to eleven businesses, requesting participation in the sign project, which consists of an electronic marquee. He would like to write the letter on Delta City

letterhead if it meets with the approval of the Council Members. Council Member Droubay also requested Council Member approval of proposed participants list. The Council Members will review the proposed letter and the list and discuss the item at the next City Council meeting.

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Council Member Gayle Bunker requested that work begin on the Fourth of July celebration. Mayor Dafoe reported that Evan Maxfield would like to increase the award money for parade entrants up to approximately \$600-\$800 and will be submitting a proposal. We need a celebration chairman and we need to know where we are on the Miss Liberty Pageant. Karen Burraston has been doing that for the last couple of years and Dorothy Jeffery will be contacting here to see if she will do it again this year. Council Member Droubay reported that he had made contact with several individuals, two of which said that they would consider being a chairperson for the celebration.

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Mayor Dafoe asked if there were any comments, questions or items to be discussed. There being none, Council Member Gale Bunker MOVED to adjourn. The motion was SECONDED by Council Member Dale Roper. Mayor Dafoe asked if there were any comments or questions regarding the motion. There being none, he called for a vote. The motion passed unanimously. Mayor Dafoe declared the meeting adjourned at 9:10 p.m.

  
DON DAFOE, Mayor

  
DOROTHY JEFFERY  
Delta City Recorder

MINUTES APPROVED: RCCM 06-10-96